

1 AN ACT relating to public water and wastewater systems and making an
2 appropriation therefor.

3 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

4 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO
5 READ AS FOLLOWS:

6 *(1) As used in Sections 1 to 3 of this Act:*

7 *(a) "Eligible loan recipient" means a public water or wastewater system that*
8 *meets one (1) or more of the criteria listed in subsection (7)(d)1. to 9. of this*
9 *section;*

10 *(b) "Eligible project" means a project that would require capital or non-capital*
11 *expenses including but not limited to expenses relating to:*

12 *1. Developing technical, operational, and maintenance resources and*
13 *expertise;*

14 *2. Improving utility infrastructure planning, repair, maintenance,*
15 *renovation, and management of plants and assets;*

16 *3. Obtaining technical expertise in areas of rate-setting, cost-of-service,*
17 *and proper utility accounting standards for the utility type;*

18 *4. Performing and correcting deficiencies from drinking water,*
19 *wastewater, and financial audits;*

20 *5. Providing financing for financial inadequacies, including debt service*
21 *coverage through relief or refinance of the drinking water or*
22 *wastewater system's debt;*

23 *6. Providing payment assistance for other financial inadequacies*
24 *including but not limited to excessive maintenance costs, fines and*
25 *penalties from past violations, or consultants; and*

26 *7. Extending financing for inadequately maintained distribution,*
27 *collection, or treatment works, including service extensions to*

1 unserved or underserved areas and the renovation of treatment works
2 to conserve resources;

3 (c) "Kentucky Water and Wastewater Assistance for Troubled or Economically
4 Restrained Systems Program" or "Kentucky WWATERS Program" means
5 the program established under this section and administered in partnership
6 between the Kentucky Infrastructure Authority and the Kentucky Rural
7 Water Association; and

8 (d) "Public water or wastewater system" means any of the following that serve
9 a community:

10 1. A water district, water association, or joint water commission formed
11 under KRS Chapter 74;

12 2. A sewer district or sanitation district formed under KRS Chapter 67,
13 76, or 220;

14 3. A municipal water utility and water works, sewer utility, sewage
15 system or works, or combined electric and water plant formed under
16 KRS Chapter 96; and

17 4. Any combination of two (2) or more of the entities listed in
18 subparagraphs 1. to 3. of this paragraph.

19 (2) The Kentucky WWATERS Program is hereby established under the authority to
20 provide for an orderly process for eligible public water or wastewater systems to
21 apply for loans for eligible projects and for those loan applications to be
22 evaluated, scored, and presented to the General Assembly for consideration for
23 funding. The authority shall partner with the Kentucky Rural Water Association
24 to administer all facets of the program. The authority's administration of the
25 program includes but is not limited to the following:

26 (a) Creating and making available standardized loan applications and regional
27 loan applications;

- 1 (b) Verifying the eligibility of proposed loan recipients;
- 2 (c) Verifying that the proposed loan recipient seeks loan money for an eligible
- 3 project;
- 4 (d) Awarding loans to selected eligible loan recipients only as directed by the
- 5 General Assembly;
- 6 (e) Administering the loans and monitoring loan recipients for their success in
- 7 improving on any of the performance criteria described in subsection
- 8 (7)(d)1. to 9. of this section;
- 9 (f) Enforcing compliance with the requirements of this section for eligible loan
- 10 recipients; and
- 11 (g) On or before October 1, 2025, and each quarter thereafter, submitting a
- 12 report on the status of all loans awarded and administered by the authority
- 13 pursuant to this section and Section 2 of this Act to the Legislative Research
- 14 Commission for referral to the Interim Joint Committee on Appropriations
- 15 and Revenue, or to the House and Senate Standing Committees on
- 16 Appropriations and Revenue when the General Assembly is in session.
- 17 (3) (a) To participate in the Kentucky WWATERS Program, a loan applicant shall
- 18 submit to the Kentucky Rural Water Association an application, which shall
- 19 include a corrective action plan detailing how the requested funds would be
- 20 used to address the performance deficiencies that made the applicant
- 21 eligible for the loan.
- 22 (b) Loan applications may be shared with third-party independent consultants,
- 23 state agencies, or special purpose governmental entities in reviewing the
- 24 loan application as allowed under subsection (4) of this section. Once a
- 25 loan's application process is complete and the loan application is ready for
- 26 review, it shall be made available to the public.
- 27 (c) Loan applicants wishing to engage in a regional project shall submit a

1 single application.

2 (4) The Kentucky Rural Water Association may contract or consult with a third-party
3 independent consultant, state agencies, or special purpose governmental entities
4 to assist with the loan applicant analysis and scoring described in this section.

5 (5) If a loan applicant is selected as an eligible loan recipient approved under the
6 Kentucky WWATERS Program, it shall comply with any reporting or other
7 requirements deemed necessary by the authority to verify that the awarded loan
8 goes toward an eligible project and that the loan recipient is making
9 improvements on the performance criteria described in subsection (7)(d)1. to 9. of
10 this section.

11 (6) (a) A loan recipient shall forfeit all loan moneys received pursuant to this
12 section and Section 2 of this Act and all outstanding loan amounts,
13 including accrued interest, shall be immediately due to the authority if the
14 selected loan recipient:

- 15 1. Fails to comply with any of the requirements of this section;
16 2. Uses the awarded loan money for any purpose other than the eligible
17 project for which the loan was awarded; or
18 3. Transfers or assigns the obligation to repay the loan to any other
19 entity, including any successor in interest.

20 (b) Loan recipients may also forfeit loan funds and be subject to immediate
21 repayment to the authority of all outstanding loan amounts, including
22 accrued interest, if the authority finds that the recipient has not made
23 adequate improvements on the performance criteria described in subsection
24 (7)(d)1. to 9. of this section.

25 (7) In the implementation of the Kentucky WWATERS Program, the Kentucky Rural
26 Water Association shall:

27 (a) Process the loan applications;

1 (b) Determine whether a loan applicant is an eligible loan recipient and is
2 seeking a loan for an eligible project;

3 (c) Based on the criteria listed in paragraph (d) of this subsection, develop an
4 objective score card or rubric, which may be amended from time to time, to
5 aid in the analysis and scoring of loan applications;

6 (d) Evaluate and score each loan applicant's project according to the extent to
7 which it meets the following criteria:

8 1. The median household income within the service area of the loan
9 applicant is less than the Commonwealth's median household income;

10 2. User rates for the public drinking water or wastewater services
11 provided by the loan applicant are at or above one percent (1%) of
12 annual household income for its service area;

13 3. The loan applicant has failed to produce a financial statement audit in
14 at least one (1) of the prior three (3) years;

15 4. The loan applicant has negative income in any two (2) of the previous
16 five (5) years;

17 5. The loan applicant's debt service coverage ratio, calculated by dividing
18 its annual net operating income by its annual debt payments, was less
19 than one and one-tenth (1.1) in any three (3) of the previous five (5)
20 years;

21 6. The loan applicant's current accounts payable turnover ratio,
22 calculated by dividing its monthly net credit purchases from suppliers
23 by its average accounts payable balance for the month, is less than one
24 (1);

25 7. The loan applicant's current days' sales in accounts receivable ratio,
26 calculated by dividing its monthly accounts receivable by its monthly
27 credit sales value and multiplying the resulting quotient by the number

- 1 of days in that month, is greater than forty-five (45) days;
- 2 8. The loan applicant has received a notice of violation or has entered
- 3 into an agreed order as a result of a violation of the requirements of
- 4 the Safe Drinking Water Act, 42 U.S.C. sec. 300f et seq., or the Clean
- 5 Water Act, 33 U.S.C. sec. 1251 et seq., in the past year;
- 6 9. The percentage of water loss of the loan applicant's system is greater
- 7 than thirty percent (30%);
- 8 10. The loan applicant agency is willing to use the loan for
- 9 regionalization, consolidation, or partnerships, consistent with the
- 10 policy stated in KRS 224A.300(1);
- 11 11. The loan applicant, after receiving the loan, will be able to fully
- 12 resolve the pending issues that are the subject of its application using
- 13 the loan and other funding sources, if available; and
- 14 12. The loan applicant's proposed project demonstrates a high level of
- 15 community or regional impact potential if a loan is made;
- 16 (e) Provide detailed feedback to all loan applicants within fourteen (14) days of
- 17 the project score being completed; and
- 18 (f) No later than December 1, 2024, and each December 1 thereafter, submit to
- 19 the Legislative Research Commission for referral to the Interim Joint
- 20 Committee on Appropriations and Revenue an annual report containing:
- 21 1. The evaluations and scores of the proposed loan recipients for the year
- 22 to allow for the General Assembly to make the determinations for
- 23 funding the proposed loan recipients;
- 24 2. A list of all program applicants;
- 25 3. The identity of applicants who did not meet the eligibility requirements
- 26 for participation in the program;
- 27 4. Trends found in feedback given to applicants who did not meet the

1 eligibility requirements for participation in the program; and

2 5. Eligible uses of loan moneys cited in the loan applications.

3 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO
4 READ AS FOLLOWS:

5 (1) The Kentucky water and wastewater assistance for troubled or economically
6 restrained systems fund is hereby established in the State Treasury and shall be
7 administered by the authority.

8 (2) The fund shall be a dedicated revolving fund, and all moneys in the fund shall be
9 allocated by the General Assembly for and dedicated to providing loans for both
10 capital and non-capital expenses for eligible projects by public water or
11 wastewater systems, as evaluated and scored pursuant to Section 1 of this Act.

12 (3) Interest rates for loans awarded pursuant to this section shall be set using the
13 same criteria to set the interest rates for loans from the federally-assisted water
14 supply revolving fund administered by the authority under KRS 224A.1115 and
15 the federally-assisted wastewater revolving fund administered by the authority
16 under KRS 224A.111, except that interest rates for loans awarded pursuant to
17 this section shall be set one-half of one percent (0.5%) lower than they would
18 have been if awarded from the federally-assisted water supply and wastewater
19 revolving funds.

20 (4) (a) The fund may receive donations, gifts, state appropriations, repayments
21 from the loans provided under subsection (2) of this section, and revenues
22 or proceeds from the sale of bonds or from other financial instruments.

23 (b) The fund may receive proceeds from the authority's infrastructure revolving
24 fund under KRS 224A.304, as available, if:

25 1. Not contrary to the requirements which establish and govern the
26 management and use of those funds; and

27 2. The proceeds do not contain any federal moneys.

1 (c) Any interest earnings of the fund shall become a part of the fund and shall
2 not lapse.

3 (5) Notwithstanding KRS 45.229, moneys in the fund shall not lapse but shall be
4 carried forward to the next fiscal year and used solely for the stated purposes in
5 this section and Section 1 of this Act.

6 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO
7 READ AS FOLLOWS:

8 (1) The emergency Kentucky water and wastewater assistance for troubled or
9 economically restrained systems fund is hereby established in the State Treasury
10 and shall be administered by the authority.

11 (2) The fund shall be a dedicated revolving fund, and all moneys in the fund shall be
12 dedicated to providing loans for both capital and non-capital expenses relating
13 solely to restoring or avoiding imminent interruption of utility service provided by
14 a public water or wastewater system after a statewide state of emergency has been
15 declared pursuant to KRS Chapter 39A or a local state of emergency has been
16 declared for the jurisdiction where the public water or wastewater system is
17 located pursuant to KRS Chapter 39B.

18 (3) The authority may require a public water or wastewater system to include with its
19 application for loan funds under this section a corrective action plan detailing
20 how the applicant plans to address any performance deficiencies that may have
21 given rise to the need for the requested loan funds.

22 (4) Interest rates for loans awarded pursuant to this section shall be set using the
23 same criteria to set the interest rates for loans from the federally-assisted water
24 supply revolving fund administered by the authority under KRS 224A.1115 and
25 the federally-assisted wastewater revolving fund administered by the authority
26 under KRS 224A.111.

27 (5) (a) The fund may receive donations, gifts, state appropriations, repayments

1 from the loans provided under subsection (2) of this section, and revenues
 2 or proceeds from the sale of bonds or from other financial instruments.

3 (b) The fund may receive proceeds from the authority's infrastructure revolving
 4 fund under KRS 224A.304, as available, if:

5 1. Not contrary to the requirements which establish and govern the
 6 management and use of those funds; and

7 2. The proceeds do not contain any federal moneys.

8 (c) Any interest earnings of the fund shall become a part of the fund and shall
 9 not lapse.

10 (6) Notwithstanding KRS 45.229, moneys in the fund shall not lapse but shall be
 11 carried forward to the next fiscal year and used solely for the stated purposes in
 12 this section.

13 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 96 IS CREATED TO
 14 READ AS FOLLOWS:

15 (1) As used in this section:

16 (a) "Acquiring utility" means a public water or wastewater system, or a utility
 17 described in KRS 278.010(3)(d) or (f);

18 (b) "Cabinet" means the Energy and Environment Cabinet;

19 (c) "Commission" means the Public Service Commission;

20 (d) "Forbearance period" means a three (3) year period of time that begins on
 21 the day that the sale of the public water or wastewater system to the
 22 acquiring utility closes;

23 (e) "Governing body" means the appointed officials having control and
 24 responsibility for the governance of the public water or wastewater system;
 25 and

26 (f) "Public water or wastewater system" means any of the following that serve
 27 a community;

- 1 1. A water district, water association, or joint water commission formed
2 under KRS Chapter 74;
- 3 2. A sewer district or sanitation district formed under KRS Chapter 67,
4 76, or 220;
- 5 3. A municipal water utility and water works, sewer utility, or sewage
6 system or works, or combined electric and water plant formed under
7 this chapter; and
- 8 4. Any combination of two (2) or more of the entities listed in
9 subparagraphs 1. to 3. of this paragraph.
- 10 (2) Notwithstanding any provision of law to the contrary, when a public water or
11 wastewater system is sold, the acquiring utility shall have a forbearance period
12 during which the acquiring utility shall:
- 13 (a) Not be required to pay any of the acquired public water or wastewater
14 system's fines or penalties imposed for violations of KRS Chapter 224 or
15 278, or the administrative regulations promulgated thereunder, including
16 any fines and penalties imposed prior to the effective date of this Act;
- 17 (b) Make all necessary improvements to the public water or wastewater system
18 and its public works to correct past violations and bring the water system,
19 wastewater system, or both into compliance with state and federal law; and
- 20 (c) Be given priority for any eligible financing from the Kentucky
21 Infrastructure Authority to correct all deficiencies in the system identified
22 in state and federal violations.
- 23 (3) The public water or wastewater system shall maintain and make accessible all
24 books and records associated with the actions taken during the forbearance
25 period to the cabinet, the Kentucky Infrastructure Authority, and the commission
26 to demonstrate compliance with this section. The acquiring utility shall comply
27 with any law requiring audits of its books, records, or operations of its facilities

1 or works.

2 (4) Within thirty (30) days of receiving a notice of intent to purchase a public water
3 or wastewater system by the governing body or owner of the acquiring utility, the
4 cabinet and the commission shall each prepare and submit a list to the acquiring
5 utility detailing the fines, penalties, and other deficiencies that have accrued to
6 the acquired public water or wastewater system and the length of time that those
7 amounts may be deferred during the forbearance period.

8 (5) After the forbearance period has expired, the cabinet and the commission shall
9 either:

10 (a) Waive all fines and penalties incurred prior to the commencement of the
11 forbearance period if all of the deficiencies giving rise to the fines and
12 penalties have been resolved and:

13 1. The deficient public water or wastewater system is placed under a
14 management and operations agreement with all day-to-day
15 management and operations handled by a well-operated utility; or

16 2. The deficient public water or wastewater system is sold to an acquiring
17 utility;

18 (b) Proceed to collect all past due fines and penalties if the deficiencies have
19 not been resolved or the deficient public water or wastewater system is not
20 under a management and operations agreement or sold to an acquiring
21 utility; or

22 (c) Grant an extension of the forbearance period of no longer than six (6)
23 months if the commission and the cabinet determine that all of the
24 conditions for waiver of fines and penalties in paragraph (a) of this
25 subsection will be satisfied by that time.

26 Notwithstanding any provision of law to the contrary, interest or additional
27 charges shall not be imposed by the cabinet or the commission on those accrued

1 amounts during the forbearance period.

2 (6) If, after the expiration of the forbearance period and any extension thereto, the
3 total amount owed for past due fines and penalties is either paid to the cabinet
4 and the commission on time or waived under subsection (5)(a) of this section, the
5 acquiring utility shall continue to be granted priority for any eligible financing
6 from the Kentucky Infrastructure Authority under Section 5 of this Act. If the
7 amounts required to be remitted or waived under this subsection are not remitted,
8 the cabinet and the commission shall inform the Kentucky Infrastructure
9 Authority and the acquiring utility shall no longer be granted preference or
10 priority for any eligible financing from the Kentucky Infrastructure Authority.

11 (7) An acquired public water or wastewater system to which a forbearance period has
12 been applied under this section shall not be eligible for any additional
13 forbearance periods.

14 ➔Section 5. KRS 224A.316 is amended to read as follows:

15 (1) In furtherance of the goal of making access to public water and wastewater systems
16 more resilient and available to the public, the General Assembly finds and declares
17 that governmental agencies should provide to water and wastewater systems the
18 requisite financial resources to:

19 (a) Develop the technical, managerial, and operational expertise needed to
20 properly operate and maintain their drinking water and wastewater systems;

21 (b) Conserve, protect, and maximize the resources needed to offer drinking water
22 and wastewater systems and services;

23 (c) Upgrade drinking water and wastewater systems and services to prevent water
24 loss and inflow and infiltration from degrading infrastructure; and

25 (d) Leverage existing finance with anticipated federal dollars or with other
26 sources as may be available from time to time to create a larger pool of
27 finance for water and wastewater systems to make improvements while

1 keeping customer rates affordable.

2 ~~(2) The Kentucky Infrastructure Authority shall implement a program to assist~~
3 ~~governmental agencies that provide drinking water and wastewater services with~~
4 ~~the financial resources for both capital and non-capital expenses, including but not~~
5 ~~limited to:~~

6 ~~(a) Developing technical, operational, and maintenance resources and expertise;~~

7 ~~(b) Improving utility infrastructure planning, repair, maintenance, renovation, and~~
8 ~~management of plants and assets;~~

9 ~~(c) Obtaining technical expertise in areas of rate setting, cost of service, and~~
10 ~~proper utility accounting standards for the utility type;~~

11 ~~(d) Performing and correcting deficiencies from drinking water, wastewater, and~~
12 ~~financial audits;~~

13 ~~(e) Providing finance for financial inadequacies, including debt service coverage~~
14 ~~through relief or refinance of the drinking water or wastewater system's debt;~~

15 ~~(f) Payment assistance for other financial inadequacies such as excessive~~
16 ~~maintenance costs, fines and penalties from past violations, or consultants;~~
17 ~~and~~

18 ~~(g) Extending finance for inadequately maintained distribution, collection, or~~
19 ~~treatment works, including service extensions to unserved or underserved~~
20 ~~areas and the renovation of treatment works to conserve resources.~~

21 ~~(3)~~ The authority shall give priority for projects that are regional in nature and achieve
22 the purposes set out in KRS 224A.300, including but not limited to projects
23 designed to correct state or federal deficiencies of a public water or wastewater
24 system that is being acquired as described in Section 4 of this Act.